



ZACHARY W. CARTER
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

W. KEAUPUNI AKINA
Senior Counsel
Telephone: 212-356-2377
Facsimile: 212-356-3509
wakina@law.nyc.gov

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BY EMAIL

Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Centre Street
New York, NY 10007

Re: Franklin McKenzie v. The City of New York, et al.,
17 CV 4899 (PAE)

Your Honor:

I am a Senior Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York, and represent Defendants City of New York ("City"), PO Twum, and PO Catanzarita (collectively "Defendants") in the above captioned matter. Defendants write to request permission to file PO Catanzarita's medical records under seal as an exhibit to their motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

Pursuant to the Court's November 9, 2018 Order, defendants' motion for summary judgment is due by December 14, 2018. (Dkt. No. 59). PO Catanzarita was the only individual who sustained physical injuries during plaintiff's arrest in the instant lawsuit. As such, the record contains medical information that should not be publicly disclosed in order to preserve PO Catanzarita's personal privacy under the Health Insurance Portability and Accountability Act ("HIPAA"). See also Dubose v. Boudreaux, 12-cv-7633 (KBF), 2014 U.S. Dist. LEXIS 123777, at *2 n.3 (S.D.N.Y. Aug. 20, 2014) ("Defendants appropriately filed plaintiff's medical records under seal"). Moreover, the Southern District's ECF Privacy Policy advises caution when filing documents containing "medical records, treatment and diagnosis."

With the Court's permission, the courtesy copy to be submitted by defendants to the Court will be un-redacted, and all records filed under seal will be provided and identified as having been filed under seal for the Court's reference and convenience. In an effort to abide by Your Honor's Individual Rule 4.B (requiring complete and unredacted documents be submitted when seeking to file under seal) and Rule 6.A (authorizing redactions to information including dates of birth and medical records without Court approval), defendants also submit a redacted copy of these records. The redacted copy, which has been produced to plaintiff during discovery, only withholds PO Catanzarita's personal date of birth, medical record number, insurance information, and medical history unrelated to the type of injury sustained during his encounter with plaintiff. In order to maintain PO Catanzarita's privacy, defendants respectfully request they be permitted to file under seal and provide to plaintiff's counsel that same redacted version of his records.

12/12/18
The Court has reviewed the redacted version of PO
Catanzarita's medical records and grants defendants'
request to file the exhibit containing those records under
seal.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Respectfully submitted,

/s/

W. KeAupuni Akina
Senior Counsel
Special Federal Litigation Division